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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,316	01/26/2001	Dan Alan Brendes	1322/49/2	7530

25297 7590 06/14/2004

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EXAMINER
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LE, HIEU C

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 06/14/2004

18

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/770,310

Applicant(s)

BRENDEN ET AL.

Examiner

Hieu c. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 30days MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-57 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

*Election/Restriction*

**1. Restriction to one of the following inventions is required under 35 U.S.C. 121:**

I. Claims 1-15,43-55, drawn to a method for use at a gateway node in a converged telephony / data network environment for communicating operating status information associated with nodes in a signaling system 7 (SS7) telephony signaling network of the converged network to nodes in a data network of the converged network, classified in class 709, subclass 249.

II. Claims 16-34,56, drawn to a method for use at a gateway node in a converged telephony / data network for distributing operating status information associated with a node in a signaling system 7 (SS7) network of the converged network to nodes in a data network of the converged network, performing a routing key database lookup using information contained in the SS7 network management message and identifying a node in the data network capable of communicating with the SS7 node and wherein communicating the operating status information to the identified node in the data network includes communicating the operating status information to an IP node in an Internet protocol (IP) network, classified in class 709, subclass 379/220.01.

III. Claims 35-42,57, drawn to a signaling gateway, classified in class 370, subclass 401.

2. Inventions I,II and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP. § 806.05(c)). In the instant

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case, the combination as claimed does not require the particulars of the subcombination as claimed because the broadest combination claim i.e. claim 1 does not require "a routing key database lookup using information contained in the SS7 network management message and identifying a node in the data network capable of communicating with the SS7 node" as recites in the broadest subcombination claim 16, and does not require, first and second node, receiving from a second node in the data network a second status audit message requesting the operating status of first node in the SS7 network; determining whether the second status audit message is received within a predetermined time period following receipt of the first status audit message as recites in the broadest subcombination claim 35. The subcombination has separate utility such as a communication network element that is capable of routing signaling messages and also performing inter-network management functions.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Gregory A. Hunt on 6/4/04 to request an oral election to the above restriction requirement, but did not result in an election being made.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Hieu Le whose telephone number is (703) 306-3101. The examiner can normally be reached on Monday to Friday from 8:00 AM to 4:00 PM.

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The fax number of this Group 2153 is (703) 872-9306 or 305-7201 .Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

  
JACK B. HARVEY  
SUPERVISORY PATENT EXAMINER